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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,131	08/08/2003	Abedan Kanthasamy	ELS-28-07-02	3841
7590	01/14/2005			
Kenneth C. Brooks Law Office of Kenneth C. Brooks P.O. BOX 10417 Austin, TX 78766			EXAMINER SAFAVI, MICHAEL	
			ART UNIT 3673	PAPER NUMBER

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/637,131

Applicant(s)

KANTHASAMY, ABEDAN

Examiner

M. Safavi

Art Unit

3673

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3673

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiggins. Wiggins discloses, Fig. 2, 3, 4, and 6-10, a futon structure having back and seat platforms 12 and 11 with "mortise plate" 25 serving to space the back platform from the seat platform as by detent 26, whether in a seating position or a bed position, and is disposed at opposite ends of the rear cross member. First and second end frames have first and second legs 13 disposed thereon. Pair of spaced apart parallel cross members are at 30, 31. Journal with cam is at 19/18 as well as 16.

Claims 1-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Roma et al. Roma et al. discloses, Fig. 1-3, 6, and 7, a futon structure having back and seat platforms 18 and 22 with "mortise plate" 25 serving to space the back platform from the seat platform as by detent, (pintle), whether in a seating position or a bed position, and is disposed at opposite ends of the rear cross member. First and second end frames

Art Unit: 3673

12A, 12B have first and second legs disposed thereon. Pair of spaced apart parallel cross members are at 14, 16. Journal with cam is at 104/100, 106/102.

Claims 1-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Dodge. Dodge discloses, Fig. 2-4, a futon structure having back and seat platforms 14 and 12 with "mortise plate", (extension of 46 beyond 50), serving to variably space the back platform from the seat platform as by detent 54, whether in a seating position or a bed position, and is disposed at opposite ends of the rear cross member. First and second end frames 16, 16 have first and second legs 22, 24 disposed thereon. Pair of spaced apart parallel cross members are at 18, 20. Journal with cam is at 30/42, 36/44.

Claims 1-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Hester. Hester discloses, Fig. 1-5, a futon structure having back and seat platforms 12 and 11 with "mortise plate", 38/39 serving to variably space the back platform from the seat platform as by detent 39, whether in a seating position or a bed position, and is disposed at opposite ends of the rear cross member. First and second end frames 16, 16' have first and second legs 14, 15 disposed thereon. Pair of spaced apart parallel cross members are at 18, 19. Journal with cam is at 17/31, 37/36.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2481. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
January 05, 2005